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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/782,017	02/14/2001	Hiroshi Kamiya	Q63036	3808

7590 01/08/2008  
SUGHRUE, MION, ZINN, MACPEAK & SEAS  
2100 Pennsylvania Avenue, N.W.  
Washington, DC 20037

EXAMINER
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THEIN, MARIA TERESA T

ART UNIT	PAPER NUMBER
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3627

MAIL DATE	DELIVERY MODE
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01/08/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 09/782,017	<b>Applicant(s)</b> KAMIYA, HIROSHI	
	<b>Examiner</b> MARISSA THEIN	<b>Art Unit</b> 3627	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 25 October 2007.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-47 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-47 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Response to Amendment***

Applicant's "Amendment Under 37 C.F.R. 1.111" filed on October 25, 2007 has been considered.

Claims 1, 4, 7, 10 and 37 are amended. Claims 1-47 remain pending in this application.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 1, 4, 7, 10, and 13-42 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,578,014 to Murcko, Jr. in view of U.S. Patent No. 4,926,325 to Benton et al.**

Regarding claims 1, 4, 7, 10, and 37, Murcko discloses a commodity order issuing and accepting method, system and apparatus comprising:

- providing an order issuing device of electronic communications (buyer's interface, modem; Figure 1);
- providing an order accepting device capable of electronic communications (seller interface, modem; Figure 1);

- the requesting a first electronic document comprising first input fields for accepting order issuer information and for accepting commodity order issuance information except for an order issuer's payment date from said order accepting device (Figure 14; Buyer Registration Form; col. 23, line 46- col. 24, line 7; col. 22, line 28);
- the transmitting the first electronic document from the order acceptor side to the order issuing device (Figure 14; Buyer Registration Form; col. 23, line 46- col. 24, line 7; col. 22, line 28);
- the inputting the order issuer information and the commodity order issuance information (Figure 14; Buyer Registration Form; col. 23, line 46- col. 24, line 7; col. 22, line 28);
- the transmitting the order issuer information and the commodity order issuance information except for said order issuer's payment date to said order accepting device (col. 23, line 61 – col. 24, line 2);
- the retrieving a transaction condition corresponding to the commodity order issuance information on the order accepting device (col. 22, lines 34-57);
- the transmitting a second electronic document on which the transaction condition is described and which has a second input field for said order issuer's payment date to said order issuing device (Figure 18); and
- wherein said second electronic document comprises information a formula for calculating a payment price based on the order issuer's payment date (payment date) (Figure 18. col. 16, lines 59-61; col. 27, lines 59-col. 28, line 14; Figure 17).

However, Murcko does not explicitly disclose inputting the order issuer's payment date and transmitting the order issuer's payment date. Murcko discloses payment date stores the date on which the buyer assigns the payment amount for this item (col. 16, lines 59-61). Furthermore in Figure 18, a payment date input field is shown, wherein the buyer sets the payment amount for an item, the date/time on which this happens will subsequently appear (col. 28, lines 26-30).

Benton, on the other hand, teaches the inputting the order issuer's payment date and transmitting the order issuer's (buyer) payment date (col. 9, lines 51-54; col. 16, lines 30-32; col. 16, lines 38-42). Benton teaches a system and method for carrying out funds data transfer between buyers and sellers in a common location, a local mode of operation, or at different locations in a remote mode (col. 2, lines 50-52; col. 2, lines 59-61). Benton further teaches the prompting of the buyer to enter the date and time of the proposed transaction (col. 16, lines 38-40). The buyer is prompted to enter the authorization code and transaction amount (col. 9, lines 42-44). The buyer is then prompted for a time and date after which the transaction is permitted to proceed (col. 9, lines 51-53).

Therefore, it would have been tr to one of ordinary skill in the art at the time of the invention was made to modify the method, system, and apparatus of Murcko, to include the inputting and transmitting of the order issuer's payment date, as taught by Benton, in order to provide the buyer payment options (Benton col. 16, lines 30-33).

Regarding claims 13-20, Murcko substantially discloses the claimed invention, however, it does not explicitly disclose the order issuer's payment date is a proposed

payment date and is manually entered by a user. Murcko discloses payment date stores the date on which the buyer assigns the payment amount for this item (col. 16, lines 59-61). Furthermore in Figure 18, a payment date input field is shown, wherein the buyer sets the payment amount for an item, the date/time on which this happens will subsequently appear (col. 28, lines 26-30).

Benton, on the other hand, teaches the order issuer's payment date is a proposed payment date and is manually entered by a user (col. 9, lines 51-54; col. 16, lines 30-32; col. 16, lines 38-42). Benton teaches a system and method for carrying out funds data transfer between buyers and sellers in a common location, a local mode of operation, or at different locations in a remote mode (col. 2, lines 50-52; col. 2, lines 59-61). Benton further teaches the buyer to elect to carry out the transaction immediately or prompting of the buyer to enter the date and time of the proposed transaction (col. 16, lines 38-40).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the method, system, and apparatus of Murcko, to include the order issuer's payment date is a proposed payment date and is manually entered by a user, as taught by Benton, in order to provide the buyer payment options (Benton col. 16, lines 30-33).

Regarding claims 21-32, Murcko discloses HTML format (col. 14, lines 62-63), Internet (col. 3, lines 58-59), and a transaction condition is a formula related to a commodity transaction (col. 27, line 57 – col. 28, line 14).

Regarding claims 33-36, Murcko discloses the order issuer's information is at least one of an order's issuer's name, an order issuer's address and an order issuer's telephone number (Figure 14).

Regarding claims 38-42, Murcko discloses the commodity order issuance information is a commodity item (Figures 17-18; col. 27, lines 20-23).

**Claims 2-3, 5-6, 8-9, and 11-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,578,014 to Murcko, Jr. and U.S. Patent No. 4,926,325 to Benton et al. as applied to claims 1, 4, 7, and 10 above, and further in view of U.S. Patent No. 6,314,406 to O'Hagan.**

Regarding claims 2-3, 5-6, 8-9, and 11-12, Murcko and Benton substantially discloses the claimed invention, however, the combination does not explicitly disclose the calculating reduced price corresponding to the transaction condition; transmitting a third electronic document on which the reduced price is described and which has means for imputing an authentication to said order issuing device; activating the means for inputting the authentication; and transmitting information representing that said means for inputting the authentication has been activated to said order accepting device.

O'Hagan teaches calculating a reduced price corresponding to the transaction condition (col. 21, lines 15-16; Figure 32; col. 23, lines 42-52; col. 28, lines 45-50; col. 32, lines 1-3). O'Hagan further teaches transmitting a third electronic document on which the reduced price is described and which has means for imputing an authentication to said order issuing device; activating the means for inputting the authentication; and transmitting information representing that said means for inputting

the authentication has been activated to said order accepting device (col. 17, lines 20-56; col. 28, lines 44-56).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the combination, to include calculating a reduced price, as taught by O'Hagan, in order to obtain a discount on a product (O'Hagan, col. 1, lines 39).

**Claims 43-47 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,578,014 to Murcko, Jr. and U.S. Patent No. 4,926,325 to Benton et al. as applied to claims 1, 4, 7, and 10 above, and further in view of U.S. Patent No. 6,405,174 to Walker et al.**

Regarding claims 43-47, Murcko and Benton substantially discloses the claimed invention, however, the combination does not explicitly disclose a regular payment amount and a payment due date, the regular payment amount being due on the payment due date, and wherein the payment amount and the payment due date are determined by the order accepting device.

Walker, on the other hand, teaches the regular payment amount and the payment due date, the regular payment amount being due on the payment due date, and wherein the payment amount and the payment due date are determined by the order accepting device (col. 7, lines 8-26)

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the combination, to include the regular



payment amount and the payment due date, as taught by Walker, to provide payment in a timely manner.

### ***Response to Arguments***

Applicant's arguments filed October 25, 2007 have been fully considered but they are not persuasive.

Applicant remarks that the combination of Murcko and Benton teaches "wherein said electronic document comprises a formula for calculating a payment price based on said order issuers' payment date".

The Examiner does not agree. Murcko discloses wherein said electronic document comprises a formula for calculating a payment price based on said order issuers' payment date". In col. 27, lines 49-56, the buyer can specify an item request such as the buyer indicating that he/she is willing to pay or an approximate amount or he/she can split between sellers (col. 27, lines 50-55). The buyer can specify a cutoff percentile depending on the sellers providing items and in response to item requests (col. 28, lines 1-4). A buyer can make item request to specific sellers, he/she can only choose among those sellers who are willing to accept item requests from buyers who meet the sellers' requirements, such as the buyer having an average payment of at least a certain amount (col. 28, lines 7-13). When the buyer sets the payment amount for an item, date and time appears and buyer has a predetermined period of time in which to make a payment (col. 28, lines 26-30). The cutoff percentile stores the minimum percentile cutoff of eligible sellers for a particular buyer. This is the value that

the buyer has entered, indicating the lowest acceptable percentile of sellers in terms of their average payments received for items (col. 20, lines 15-21).

Such the buyer can specify an item request such as the buyer indicating that he/she is willing to pay or an approximate amount or he/she can split between sellers; buyer can specify a cutoff percentile depending on the sellers providing items and in response to item requests; the buyer sets the payment amount for an item, date and time appears and buyer has a predetermined period of time in which to make a payment; and cutoff percentile stores the minimum percentile cutoff of eligible sellers for a particular buyer wherein this is the value that the buyer has entered, indicating the lowest acceptable percentile of sellers in terms of their average payments received for items are considered "wherein said electronic document comprises a formula for calculating a payment price based on said order issuers' payment date".

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MARISSA THEIN whose telephone number is (571)272-6764. The examiner can normally be reached on M-F 8:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ryan Zeender can be reached on 571-272-6790. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Mtot  
January 7, 2008

/Michael Cuff/

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